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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,502	10/19/2001	Paul O. Sheppard	97-11C2	4613

7590

12/16/2002

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EXAMINER

NICKOL, GARY B

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 12/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,502

Applicant(s)

SHEPPARD ET AL.

Examiner

Gary B. Nickol Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-15 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5 (in part), as solely drawn to an isolated polynucleotide encoding polypeptides (ranging from 35-85 amino acids long) selected from the group consisting of SEQ ID Nos: 2-6, and vectors thereof, classified in class 536, subclass 23.5; class 435, subclass 320.1.
- II. Claims 1-5 (in part), as solely drawn to an isolated polynucleotide encoding polypeptides (ranging from 162-182 amino acids long) selected from the group consisting of SEQ ID Nos: 17, 19, and 20-21 and vectors thereof, classified in class 536, subclass 23.5; class 435, subclass 320.1.
- III. Claims 6-7 (in part), as solely drawn to isolated polypeptides (ranging from 35-85 amino acids long) selected from the group consisting of SEQ ID Nos: 2-6, classified in class 530, subclass 300.
- IV. Claims 6-7 (in part), as solely drawn to isolated polypeptides (ranging from 162-182 amino acids long) selected from the group consisting of SEQ ID Nos: 17, 19, and 20-21, classified in class 530, subclass 350.

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- V. Claims 8-14, (in part) as solely drawn to antibodies that specifically bind to a polypeptide (ranging from 35-85 amino acids long) selected from the group consisting of SEQ ID Nos: 2-6, and methods of producing said antibodies classified in class 530, subclass 387.1.
- VI. Claims 8-14, (in part) as solely drawn to antibodies that specifically bind to a polypeptide (ranging from 162-182 amino acids long) selected from the group consisting of SEQ ID Nos: 17, 19, and 20-21, and methods of producing said antibodies classified in class 530, subclass 387.1.
- VII. Claim 15, (in part) as solely drawn to anti-idiotypic antibodies that specifically bind to a polypeptide (ranging from 35-85 amino acids long) selected from the group consisting of SEQ ID Nos: 2-6, and methods of producing said antibodies classified in class 530, subclass 387.2.
- VIII. Claim 15, (in part) as solely drawn to anti-idiotypic antibodies that specifically bind to a polypeptide (ranging from 162-182 amino acids long) selected from the group consisting of SEQ ID Nos: 17, 19, and 20-21, and methods of producing said antibodies classified in class 530, subclass 387.2.

The inventions are distinct, each from the other because of the following reasons:

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The Inventions of Groups I-VIII represent separate and distinct products that are made by materially different methods, and are used in materially different methods that have different modes of operation, different functions and different effects. Additionally, the peptides of SEQ ID Nos: 2-6, 17, 19, and 20-21, referred to as Zsig9 polypeptides (specification, pages 2-3), are distinct in that SEQ ID Nos: 2-6 are all less than 100 amino acids long while the amino acid sequences of SEQ ID Nos: 17, 19, and 20-21 comprise more than 100 amino acid residues. Thus, although the specification classifies these amino acids as Zsig9 polypeptides, they are individually distinct, each from the other, therefore necessitating a high search burden.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. Furthermore, because these inventions are distinct for the reasons given above and the search required for one group is not required for another group, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary B. Nickol Ph.D. whose telephone number is 703-305-7143.

The examiner can normally be reached on M-F, 8:30-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Gary B. Nickol, Ph.D.
Examiner
Art Unit 1642

GBN
December 14, 2002

A handwritten signature in black ink, appearing to read "Gary B. Nickol", is written over the typed name and title.